IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:- 10.04.2007

Coram

The Honourable Mr. Justice P. SATHASIVAM

and

The Honourable Mr. Justice S. TAMILVANAN

W.A. No.188 of 2003

M/s Empee Educational and
Charitable Trust,
rep. by its Trustee,
M.P. Purushothaman ... Appellant/Petitioner

..Vs..

1. The Govt. of Tamil Nadu,
rep. by its Secretary to
Government,
Industries Department,
Fort St. George,
Chennai - 600 009.

2. The District Collector,
Chengleput M.G.R. District,

3. The Chairman and Managing Director,
SIPCOT Limited,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.

4. SIPCOT Ltd.,
rep. by its General Manager (D),
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008. ... Respondents/Respondent

Appeal to set aside the order dated 28.11.2002 passed in W.P. No.36610 of 2002 on the file of this Court.
WP NO. 36610 of 2002:- Petition presented to this Court under Article 226 of the Costitution of India to issue a writ of certioarified Mandamus calling for the records relating to the order bearing No, D3/IRU/EMPEE/31/97 dated 19.6.2002 and the subsequent order D3/IRU/EMPEE/31/97 dated 17.7.2007 of the respondent 3 and 4 and quash the same and consequently direct the

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respondents to confirm the allotment of land measuring 43.52 acares (17. 52.00 hectares) comprised in Survey Nos. 160 pt, 162 pt, 159 pt, 158 pt, 604.2 pt, 601 pt, 600 pt, 599 pt, 578 pt situated of SIPCOT Industrial Park, Irungattukottai in terms of the promise and assurance made by the 1st Respondent as communicated in the communication D.O. 9656/MIG/11/96 DATED 16.8.1997 Ii.e.) cost of acquisition plus 25%.

For Appellant : Mr. J. Ravindran
For Respondents : Mr. K. Elango,
Spl. Govt. Pleader
for R1 and R2
N.A. for R3

JUDGMENT
(Judgment was delivered by P. SATHASIVAM, J.)

Aggrieved by the order of the learned Single Judge dated 28.11.2002 passed in W.P. No.36610 of 2002, M/s. Empee Educational and Charitable Trust through its trustees have filed the above writ appeal.

2. Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for respondents 1 and 2.

3. It is seen that based on the promise and assurance made by the Industries Department, the Government of Tamil Nadu as communicated in D.O.96 56/MIG/11/96 dated 16.8.1997, the appellant herein approached this Court to issue a writ of certiorarified mandamus, to call for the records relating to the order dated 19.6.2002 and subsequent order dated 17.7.2002 passed by respondents 3 and 4 namely the Chairman and Managing Director and General Manager of SIPCOT respectively and to quash the same.

4. Learned Judge, based on the two proposals provided under the letter dated 7.10.2002 and of the fact that the writ petitioner agreed for the first proposal viz. allotment of 43.52 acres of land at Kattrambakkam village, which was originally allotted to the petitioner in the proceedings of the fourth respondent-Corporation dated 27.1.1998 at the plot cost viz. Rs.12 lakhs per acre, by an order dated 28.11.2002, issued certain directions. Aggrieved by the said order/direction, the writ petitioner has filed the present writ appeal.

5. Learned counsel appearing for the appellant at the foremost submitted that learned Single Judge disposed of the writ petition on 28.11.2002 mainly on the basis of the statement made by the learned counsel appearing for the petitioner. According to

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the learned counsel for the appellant, there was no such instruction to the counsel and without proper instruction/clarification, the same was brought to the notice of the learned Judge, which resulted in the order dated 28.11.2002.

6. while hearing the writ appeal, learned counsel appearing for the appellant, by placing various correspondences/communication/ letters from the Government, submitted that the appellant is entitled to the relief as claimed in the writ petition. In view of the materials placed in the form of typedset, we directed the respondents, particularly respondents 3 and 4 to clarify the position, particularly the present state of affairs. Pursuant to the same, the Chairman and Managing Director of SIPCOT, the third respondent herein filed an affidavit dated 10.4.2007, wherein the following factual information furnished therein are relevant.

> " 2. I submit that the appellant was given sufficient opportunities to get the allotment of lands as committed by the respondents. However the commitment was not honoured by the appellant.
>
> 3. I submit that the Appellant has obtained the Interim order in W.A.M.P. No.245 and 246/2003 in W.A. No.188/2003 on condition to deposit an amount of Rs.5,00,000/- per acre to the respondents within the stipulated period and the same was also not complied by the Appellant.
>
> 4. I further submit that the Hon'ble High Court has passed orders in W.A.M.P. No.245/2003 in W.A. 188/2003 which is mentioned hereunder:
>
> "It is not possible to accept the prayer for extension of time in view of the fact that already allotments have been made and no lands are available and apart from that we find the petition is highly belated which is nearly after four years. Therefore no relief can be granted. Petition is dismissed."
>
> 5. I humbly submit that this respondent Corporation has no vacant plot for allotment in any of the Industrial Complexes in and around Chennai. Further respondent Corporation has got many applications for allotment which is pending as enumerated below:

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	No. of applications/ Requests	Area required	Area available under acquisition
		(In acres)	
Irungattukottai	20	942.54	772.94
Sriperumbudur	20	296.16	235.98
Oragadam	25	714.53	670.61

6. It is also humbly submitted that the present requirement for the land on the application/requests received exceeds the land available / under acquisition for industrial purpose."

7. In view of the above mentioned information in the form of affidavit, though there cannot be any mandamus as claimed by the petitioner/appellant, in view of the commitment as mentioned in the earlier part of the order, we are of the view that ends of justice would be met by treating the request of the petitioner/appellant as serial No.21 in Irungattukottai area (as application No.21). It is further made clear that as and when the appellant's turn comes, it is for the respondents to consider and pass appropriate orders in accordance with law.

7. The writ appeal is disposed of on the above terms. No costs.
Ssa.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To
1. The Secretary to
Government of Tamil Nadu,
Industries Department,
Fort St. George,
Chennai - 600 009.

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2. The District Collector,
   Chengleput M.G.R. District,

3. The Chairman and Managing Director,
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4. The General Manager (D)
   SIPCOT Ltd.,
   19-A, Rukmani Lakshmipathy Road,
   Egmore, Chennai - 600 008.

+ one cc to Mr. J. Ravindran, Advocate sr o. 23834
+ one cc to the Government Pleader sr no. 23269

akm(co)
nm(20.04.07)

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